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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA
PITTSBURGH DIVISION**

STEWART ABRAMSON, individually) Case No. 2:21-cv-275
and on behalf of all others similarly)
situated,) **CLASS ACTION**

Plaintiff,) **COMPLAINT FOR VIOLATIONS**
) **OF:**

vs.)

THE LAWSUIT AUTHORITY LLC,) 1. NEGLIGENT VIOLATIONS
KWOK DANIEL LTD. LLP, and) OF THE TELEPHONE
DOES 1 through 10, inclusive, and each) CONSUMER PROTECTION
of them,) ACT [47 U.S.C. §227(b)]
2. WILLFUL VIOLATIONS
Defendants.) OF THE TELEPHONE
) CONSUMER PROTECTION
) ACT [47 U.S.C. §227(b)]
)

DEMAND FOR JURY TRIAL

Plaintiff, STEWART ABRAMSON (“Plaintiff”), individually and on behalf
of all others similarly situated, alleges the following against Defendants, THE
LAWSUIT AUTHORITY LLC and KWOK DANIEL LTD. LLP (collectively
referred to as “Defendants”), upon information and belief based upon personal
knowledge:

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INTRODUCTION

1
2 1. Plaintiff's Class Action Complaint is brought pursuant to the
3 Telephone Consumer Protection Act, *47 U.S.C. § 227, et seq.* ("TCPA").

4 2. Plaintiff, individually, and on behalf of all others similarly situated,
5 brings this Complaint for damages, injunctive relief, and any other available legal
6 or equitable remedies, resulting from the illegal actions of Defendants in
7 negligently, knowingly, and/or willfully contacting Plaintiff on Plaintiff's cellular
8 telephone, thereby violating the TCPA, *47 U.S.C. § 227*. Plaintiff alleges as
9 follows upon personal knowledge as to himself and his own acts and experiences,
10 and, as to all other matters, upon information and belief, including investigation
11 conducted by his attorneys.

JURISDICTION AND VENUE

12
13 3. Jurisdiction is proper under *28 U.S.C. § 1332(d)(2)* because Plaintiff,
14 a resident of Pennsylvania, seeks relief on behalf of a Class, which will result in at
15 least one class member belonging to a different state than that of Defendants, both
16 of whom are companies who were formed and are located in Texas. Plaintiff also
17 seeks up to \$1,500.00 in damages for each call in violation of the TCPA, which,
18 when aggregated among a proposed class in the thousands, exceeds the
19 \$5,000,000.00 threshold for federal court jurisdiction. Therefore, both diversity
20 jurisdiction and the damages threshold under the Class Action Fairness Act of 2005
21 ("CAFA") are present, and this Court has jurisdiction. In addition, this Court has
22 jurisdiction pursuant to *28 U.S.C. § 1331*, as this civil action arises under a law of
23 the United States, the TCPA.

24
25 4. Venue is proper in this District pursuant to *28 U.S.C. § 1391(b)*
26 because a substantial part of the events giving rise to this claim occurred in this
27 District.

28 ///

PARTIES

5. Plaintiff, STEWART ABRAMSON (“Plaintiff”), is a natural person residing in Pittsburgh, Pennsylvania, and is a “person” as defined by 47 U.S.C. § 153 (39).

6. Defendant, THE LAWSUIT AUTHORITY LLC, is a legal claims processing company, and is a “person” as defined by 47 U.S.C. § 153 (39).

7. Defendant, KWOK DANIEL LTD. LLP, is a law firm, and is a “person” as defined by 47 U.S.C. § 153 (39).

8. The above-named Defendants, and their subsidiaries and agents, are collectively referred to as “Defendants.” The true names and capacities of the Defendants sued herein as DOE DEFENDANTS 1 through 10, inclusive, are currently unknown to Plaintiff, who therefore sues such Defendants by fictitious names. Each of the Defendants designated herein as a DOE is legally responsible for the unlawful acts alleged herein. Plaintiff will seek leave of Court to amend the Complaint to reflect the true names and capacities of the DOE Defendants when such identities become known.

9. Plaintiff is informed and believes that at all relevant times, each and every Defendant was acting as an agent and/or employee of each of the other Defendants and was acting within the course and scope of said agency and/or employment with the full knowledge and consent of each of the other Defendants. Plaintiff is informed and believes that each of the acts and/or omissions complained of herein was made known to, and ratified by, each of the other Defendants.

FACTUAL ALLEGATIONS

10. Beginning on or about November 30, 2020, Plaintiff received a text message from Defendants on Plaintiff’s cellular telephone number ending in -5679, in an attempt to solicit Plaintiff to purchase Defendants’ services.

1 11. During this time, Defendants began to use Plaintiff's cellular
2 telephone for the purpose of sending Plaintiff a spam advertisement and/or
3 promotional offer, via text message, including a text message sent to and received
4 by Plaintiff on or about November 30, 2020 from Defendants.

5 12. On or about November 30, 2020, Plaintiff received a text from
6 Defendants that read: "Dear Joseph, Y0UR ZANTAC PAY0UT: CoLlect You're
7 Settlement Before The Deadline 0n I2/04!: fz8c.info/jH7rJ4qFO8".

8 13. Defendants' text message was sent to Plaintiff from telephone number
9 (910) 741-6381.

10 14. This text message placed to Plaintiff's cellular telephone was placed
11 via Defendants' *SMS Blasting Platform*, i.e., an "automatic telephone dialing
12 system," ("ATDS") as defined by 47 U.S.C. § 227(a)(1) as prohibited by 47 U.S.C.
13 § 227(b)(1)(A).

14 15. The telephone number that Defendants, or their agent, called (i.e. sent
15 the above-described text message) was assigned to a cellular telephone service for
16 which Plaintiff incurs a charge for incoming calls pursuant to 47 U.S.C. §
17 227(b)(1).

18 16. Defendant's text message constituted a call that was not for
19 emergency purposes as defined by 47 U.S.C. § 227(b)(1)(A).

20 17. During all relevant times, Defendants did not possess Plaintiff's "prior
21 express consent" to receive calls using an automatic telephone dialing system on
22 his cellular telephone pursuant to 47 U.S.C. § 227(b)(1)(A).

23 CLASS ALLEGATIONS

24 18. Plaintiff brings this action individually and on behalf of all others
25 similarly situated, as a member of the proposed class (hereafter "The Class")
26 defined as follows:

27 All persons within the United States who received any
28 solicitation/telemarketing calls from Defendants to said

1 person's cellular telephone made through the use of any
2 automatic telephone dialing system or an artificial or
3 prerecorded voice and such person had not previously
4 consented to receiving such calls, or who had revoked
5 such consent, within the four years prior to the filing of
6 this Complaint through the date of class certification.

7 19. Plaintiff represents, and is a member of, The Class, consisting of all
8 persons within the United States who received any solicitation/telemarketing calls
9 from Defendants to said person's cellular telephone made through the use of any
10 automatic telephone dialing system or an artificial or prerecorded voice and such
11 person had not previously consented to receiving such calls, or who had revoked
12 such consent, within the four years prior to the filing of this Complaint through the
13 date of class certification.

14 20. Defendants, their employees and agents are excluded from The Class.
15 Plaintiff does not know the number of members in The Class, but believes the Class
16 members number in the thousands, if not more. Thus, this matter should be
17 certified as a Class Action to assist in the expeditious litigation of the matter.

18 21. The Class is so numerous that the individual joinder of all of its
19 members is impractical. While the exact number and identities of The Class
20 members are unknown to Plaintiff at this time and can only be ascertained through
21 appropriate discovery, Plaintiff is informed and believes and thereon alleges that
22 The Class includes thousands of members. Plaintiff alleges that The Class
23 members may be ascertained by the records maintained by Defendants.

24 22. Plaintiff and members of The Class were harmed by the acts of
25 Defendants in at least the following ways: Defendants illegally contacted Plaintiff
26 and the Class members via their cellular telephones thereby causing Plaintiff and
27 the Class members to incur certain charges or reduced telephone time for which
28 Plaintiff and the Class members had previously paid by having to retrieve or
administer messages left by Defendants during those illegal calls, and invading the

1 privacy of said Plaintiff and Class members.

2 23. Common questions of fact and law exist as to all members of The
3 Class which predominate over any questions affecting only individual members of
4 The Class. These common legal and factual questions, which do not vary between
5 Class members, and which may be determined without reference to the individual
6 circumstances of any Class members, include, but are not limited to, the following:

- 7 a. Whether, within the four years prior to the filing of this
8 Complaint, Defendants made any telemarketing/solicitation
9 call (other than a call made for emergency purposes or made
10 with the prior express consent of the called party) to a Class
11 member using any automatic telephone dialing system or any
12 artificial or prerecorded voice to any telephone number
13 assigned to a cellular telephone service;
- 14 b. Whether Plaintiff and the Class members were damaged
15 thereby, and the extent of damages for such violation; and
- 16 c. Whether Defendants should be enjoined from engaging in such
17 conduct in the future.

18 24. As a person that received a telemarketing/solicitation call from
19 Defendants using an automatic telephone dialing system or an artificial or
20 prerecorded voice, without Plaintiff's prior express consent, Plaintiff is asserting
21 claims that are typical of The Class.

22 25. Plaintiff will fairly and adequately protect the interests of the members
23 of The Class. Plaintiff has retained attorneys experienced in the prosecution of
24 class actions.

25 26. A class action is superior to other available methods of fair and
26 efficient adjudication of this controversy, since individual litigation of the claims
27 of all Class members is impracticable. Even if every Class member could afford
28 individual litigation, the court system could not. It would be unduly burdensome

1 to the courts in which individual litigation of numerous issues would proceed.
 2 Individualized litigation would also present the potential for varying, inconsistent,
 3 or contradictory judgments and would magnify the delay and expense to all parties
 4 and to the court system resulting from multiple trials of the same complex factual
 5 issues. By contrast, the conduct of this action as a class action presents fewer
 6 management difficulties, conserves the resources of the parties and of the court
 7 system, and protects the rights of each Class member.

8 27. The prosecution of separate actions by individual Class members
 9 would create a risk of adjudications with respect to them that would, as a practical
 10 matter, be dispositive of the interests of the other Class members not parties to such
 11 adjudications or that would substantially impair or impede the ability of such non-
 12 party Class members to protect their interests.

13 28. Defendants have acted or refused to act in respects generally
 14 applicable to The Class, thereby making appropriate final and injunctive relief with
 15 regard to the members of The Class as a whole.

16 **FIRST CAUSE OF ACTION**

17 **Negligent Violations of the Telephone Consumer Protection Act**

18 **47 U.S.C. § 227 et seq.**

19 29. Plaintiff repeats and incorporates by reference into this cause of
 20 action the allegations set forth above at Paragraphs 1-28.

21 30. The foregoing acts and omissions of Defendants constitute numerous
 22 and multiple negligent violations of the TCPA, including but not limited to each
 23 and every one of the above cited provisions of *47 U.S.C. § 227(b)*, and in particular
 24 *47 U.S.C. § 227(b)(1)(A)*.

25 31. As a result of Defendants' negligent violations of *47 U.S.C. § 227(b)*,
 26 Plaintiff and the Class Members are entitled an award of \$500.00 in statutory
 27 damages, for each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)*.

28 32. Plaintiff and the Class members are also entitled to and seek

injunctive relief prohibiting such conduct in the future.

SECOND CAUSE OF ACTION

**Knowing and/or Willful Violations of the
Telephone Consumer Protection Act
47 U.S.C. § 227 et seq.**

33. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above at Paragraphs 1-28.

34. The foregoing acts and omissions of Defendants constitute numerous and multiple knowing and/or willful violations of the TCPA, including but not limited to each and every one of the above cited provisions of 47 U.S.C. § 227(b), and in particular 47 U.S.C. § 227(b)(1)(A).

35. As a result of Defendants' knowing and/or willful violations of 47 U.S.C. § 227(b), Plaintiff and the Class members are entitled an award of \$1,500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

36. Plaintiff and the Class members are also entitled to and seek injunctive relief prohibiting such conduct in the future.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests judgment against Defendants for the following:

FIRST CAUSE OF ACTION

**Negligent Violations of the Telephone Consumer Protection Act
47 U.S.C. § 227, et seq.**

- As a result of Defendants' negligent violations of 47 U.S.C. § 227(b)(1), Plaintiff and the Class members are entitled to and request \$500 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).
- Any and all other relief that the Court deems just and proper.

SECOND CAUSE OF ACTION

Knowing and/or Willful Violations of the

Telephone Consumer Protection Act

47 U.S.C. § 227, et seq.

- As a result of Defendants' willful and/or knowing violations of 47 U.S.C. §227(b)(1), Plaintiff and the Class members are entitled to and request treble damages, as provided by statute, up to \$1,500, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).
- Any and all other relief that the Court deems just and proper.

TRIAL BY JURY

37. Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Respectfully submitted this 26th Day of February, 2021.

LAW OFFICES OF TODD M. FRIEDMAN, P.C.

By: /s/ Todd M. Friedman

Todd M. Friedman

Law Offices of Todd M. Friedman

Attorney for Plaintiff